

76-9-407 Crime of abuse of personal identity -- Penalty -- Defense -- Permitting civil action.

- (1) The definitions in Section 45-3-2 apply to this section.
- (2) Any person is guilty of a class B misdemeanor who knowingly or intentionally causes the publication of an advertisement in which the personal identity of an individual is used in a manner which expresses or implies that the individual approves, endorses, has endorsed, or will endorse the specific subject matter of the advertisement without the consent for such use by the individual.
- (3) It is an affirmative defense that the person causing the publication of the advertisement reasonably believed that the person whose personal identity was to be used had consented to its use.
- (4) Upon conviction of an offense under this section, unless waived by the victim, the court shall order that, within 30 days of the conviction, the person convicted shall issue a public apology or retraction to whomever received the advertisement. The apology or retraction shall be of similar size and placement as the original advertisement.
- (5) Nothing in this section prohibits a civil action under Title 45, Chapter 3, Abuse of Personal Identity Act.

Enacted by Chapter 146, 1999 General Session